



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

Office Of The Assistant Secretary

30 MAY 2003

Contract Policy Memo 03-C-10

MEMORANDUM FOR ALMAJCOM/FOA/DRU (CONTRACTING)

FROM: SAF/AQC  
1060 Air Force Pentagon  
Washington, DC 20330-1060

SUBJECT: Interim Revision of AFFARS 5349.402-3, Procedure for Default and 5349.403, Termination of Cost-Reimbursement Contracts for Default

Contract terminations can have a great impact on the Air Force mission and can also significantly impact the economic viability of our contractors. Specifically, the termination of weapon system contracts often garners high levels of congressional interest. In an effort to keep senior Air Force executives apprised of termination actions on weapon system programs, this policy memo outlines changes to Part 49 of the Air Force Federal Acquisition Regulation Supplement (AFFARS). It now requires contracting officers to immediately notify SAF/AQCK and provide copies of cure/show cause notices and termination notices to SAF/AQCK for all ACAT I, II, and III programs. In addition to ACAT program notices, contracting officers shall notify SAF/AQCK of any other notices that could result in high-level Air Force interest.

Interim changes to Part 5349 of the AFFARS are at Attachment 1 and are effective immediately. The changes will remain in effect for one year from the date of this memorandum or until incorporated formally into the AFFARS, whichever occurs first. Our action officer for this contracting issue is Lt Col Stephen Smith, SAF/AQCP, (703) 588-7058, DSN 425-7058.

CHARLIE E. WILLIAMS, JR.  
Deputy Assistant Secretary (Contracting)  
Assistant Secretary (Acquisition)

Attachment:  
AFFARS Interim Change Pages - Part 5349

cc:  
AFPEO/AT/FB/C2&CS/WP/SP/SV

**PART 5349 — TERMINATION OF CONTRACTS**

***[Revised Per Policy Memo 03-C-10]***

**SUBPART 5349.4 — TERMINATION FOR DEFAULT**

**5349.402 Termination of fixed-price contracts for default. (No Text)**

**5349.402-3 Procedure for default.**

(d) For all ACAT I, II, and III Programs, the contracting officer shall, upon issuance of the cure notice, immediately inform SAF/AQCK and forward a copy of the cure notice to SAF/AQCK. In addition to ACAT program notices, contracting officers shall notify SAF/AQCK of any other notices that could result in high-level Air Force interest.

(e)

(1) For all ACAT I, II, and III Programs, the contracting officer shall, upon issuance of the show cause notice, immediately inform SAF/AQCK and forward a copy of the show cause notice to SAF/AQCK. In addition to ACAT program notices, contracting officers shall notify SAF/AQCK of any other notices that could result in high-level Air Force interest.

(h) Prior to making a final decision concerning termination for default, the contracting officer shall forward the termination notice and the complete contract file to AFMCLO/JAB and follow the procedures in 5333.291(b).

(h) For termination notices related to ACAT I, II, and III Programs, the contracting officer shall, upon issuance of the termination notice, immediately inform SAF/AQCK and distribute a copy of the termination notice to SAF/AQCK. In addition to ACAT program notices, contracting officers shall notify SAF/AQCK of any other notices that could result in high-level Air Force interest.

**5349.402-6 Repurchase against contractor's account.**

The contracting officer shall provide copies of assessments of excess repurchase costs to DFAS/BKRD/CC and AFMCLO/JAB.

**5349.403 Termination of Cost-Reimbursement Contracts for Default**

(a) For all ACAT I, II, and III Programs, the contracting officer shall, upon issuance of the termination notice, immediately inform SAF/AQCK and forward a copy of the termination notice to SAF/AQCK. In addition to ACAT program notices, contracting officers shall notify SAF/AQCK of any other notices that could result in high-level Air Force interest.

**SUBPART 5349.5 — CONTRACT TERMINATION CLAUSES**

**AIR FORCE FAR SUPPLEMENT**  
**PART 5349 — TERMINATION OF CONTRACTS**

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**5349.501-70 Special termination costs.**

(a) Contracting officers shall refer to Volume 2A, Chapter 1, Section 010213, paragraph C.2 of DoD 7000.14-R, DoD Financial Management Regulation, for Congressional notification and additional approval requirements for Special Termination Cost Clauses (STCCs). Because STCCs require special notification to Congress and entail a long approval process over which the Air Force has little control, the contracting officer should allow SAF/AQCK sufficient time to process requests to use DFARS 252.249-7000, Special Termination Costs (i.e. not less than 90 days prior to contract award). The request shall include the following:

- (i) A detailed breakdown of applicable cost categories in the clause at DFARS 252.249-7000 (a)(1) through (5), which includes the reasons for the anticipated incurrence of the costs in each category;
- (ii) Information on the financial and program need for the clause including an assessment of the contractor's financial position and the impact of a failure to receive authority to use the clause; and
- (iii) Clear evidence that only costs that arise directly from a termination would be compensated under the clause. Costs that would be incurred by the Government, regardless of whether a termination occurs, shall not be covered by a STCC.

(c) The contracting officer shall obtain SAF/FM approval prior to authorizing any increase in the Government's maximum liability under the clause.

**SUBPART 5349.70 — SPECIAL TERMINATION REQUIREMENTS**

**5349.7001 Congressional notification on significant contract terminations.**

(c) The contracting officer shall submit the request for clearance to SAF/AQCK at least five work days before the proposed termination date. SAF/AQCK will forward the clearance request to SAF/LLP. The contracting officer shall not release the termination notice until SAF/LLP contacts the contracting officer, indicating the date and time that Congress will be notified and the contractor should receive the termination notice.

(d)(5) "Contract price of the items terminated" means the contract price of the supplies or services not yet accepted that are being terminated. The contracting officer shall not adjust this amount downward for progress or advance payments, accepted vouchered costs, or less than full funding and should use estimates when unpriced contract actions are being terminated, or when otherwise necessary.